

AMENDMENT under 37 C.F.R. § 1.111  
U.S. Appl. No. 09/385,607

### **REMARKS**

Claims 1-21 were pending in the application. By this amendment Applicant cancels claims 8 and 9 and thus claims 1-7 and 10-21 remain pending. Claims 1-4, 7, 8, 11, 12, 15 and 19-21 were rejected and claims 5-6, 9-10, 13-14 and 16-18 were objected to by the Office Action. Reconsideration and allowance of all pending claims are respectfully requested in view of the foregoing amendments and the remarks that follow.

### **WITHDRAWAL FROM APPEAL.**

Applicant notes that the present Office Action reopens prosecution from the previously pending Appeal. As the previous rejections and objections of record are not present in the instant Office Action, Applicant presumes all previous grounds of objection and rejection are deemed withdrawn in light of Applicant's Brief on Appeal and/or previous responses of record. The instant Office Action now sets forth new grounds of rejection which are addressed herein.

### **CLAIM OBJECTIONS.**

Claims 5-6, 9-10, 13-14 and 16-18 were objected to by the Office Action as containing allowable subject matter but depending from rejected base/intervening claims. Applicant kindly thanks the Examiner for the indication of allowable subject matter and, by this amendment, amends independent claim 1 to include the subject matter of now cancelled claim 9 (including the limitations of intervening, now cancelled, claim 8. Accordingly, Applicant submits that claims 1-7 and 10 should now be allowable and such indication is respectfully requested in the next Official Communication.

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**CLAIM REJECTIONS.**

**35 U.S.C. § 103**

Claims 1-4, 7, 8, 11, 12, 15 and 19-21 were rejected under 35 U.S.C. § 103 as being unpatentable over the 1998 published article entitled "Security Policy for Palladium Secure Modem" by T. Hong (hereinafter "Hong") in view of U.S. Patent 5,712,914 to Aucsmith et al. (hereinafter "Aucsmith"). Applicant respectfully traverses this rejection for the following reasons.

As previously mentioned, the amendments above pertaining to claims 1-4 and 7 should now exclude these claims from this rejection. Furthermore, while Applicant believes the 103 rejection based on the combination of Hong and Aucsmith is improper because there is no proper motivation to combine the references as suggested and even when combining the references as suggested, the proposed combination would still fail to teach or suggest limitations of Applicant's independent claims 1 and 11 (and thus all claims which depend there from); Applicant amends claims 11 in an attempt to expedite the prosecution of this case.

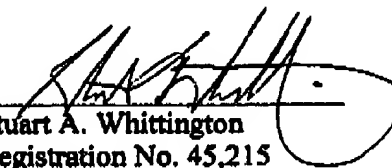
More specifically, Applicant amends independent claim 11 (and thus rejected dependent claims 12, 15 and 19-21) to recite that *the identifying indicia includes graphics data, the graphics data comprising an image of at least one credit card including a credit card number.* Applicant respectfully submits that Hong and Aucsmith, taken alone or in any combination, fail to teach or suggest this limitation and thus there can be no *prima facie* obviousness with respect to Applicant's claims. Support for the foregoing amendment to claim 11 may be found in Applicant's specification at pg. 7, ll. 16. and no new matter is believed to be including in Applicant's amendment. In view of the foregoing, Applicant respectfully submits that claims 11-21 are patentable over the cited prior art and allowance of such claims is hereby requested.

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**CONCLUSION.**

In view of the foregoing, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee or deficiency thereof, except for the Issue Fee, is to be charged to Deposit Account # 50-0221.

Respectfully submitted,

  
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